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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CHERYL JOHNSON

Docket No.:

Plaintiff,

COMPLAINT

-against-

**PLAINTIFF REQUESTS
A JURY TRIAL**

MTA METRO-NORTH RAILROAD,

Defendant.
-----X

Plaintiff, CHERYL JOHNSON, hereinafter referred to as “Plaintiff”, by her attorneys,
STEVEN L. BARKAN, PC, complaining of the Defendant, MTA METRO-NORTH
RAILROAD (Metro-North), alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. Plaintiff is an individual residing in the County of Queens, City and State of New York.
2. At all times material to this action, the Defendant, Metro-North, is licensed to do business in the State of New York with its principle place in the County, City and State of New York.
3. That all times material to this action Defendant, Metro-North, is and was a common carrier in interstate commerce.

4. At all times hereinafter mentioned, Metro-North owned and operated an interstate commerce railroad that passes through the States of New York and Connecticut and was an interstate carrier engaged in the transportation of commerce.

5. That at all times hereinafter-mentioned Plaintiff was a conductor employed by Metro-North.

6. At the time of the injuries set out in this complaint, Plaintiff was working in furtherance of interstate commerce and participating in work that directly, closely and substantially affected the interstate commerce engaged in by the Defendant, Metro-North.

7. That Plaintiff's action arises under the Federal Employers' Liability Act, 45 USC §51 *et seq.*

8. That jurisdiction in this matter is pursuant to 45 USC §51 *et seq.* and 28 USC §1331.

9. That on August 1, 2017, while assigned to work returning a train to Highbridge yard she was caused to fall when exiting the train because of uneven, loose ballast, in violation of 49 CFR 213.103.

10. That the Defendant, Metro-North, through its agents, servants and/or employees had or should have had knowledge of the fact that the ballast was uneven and loose and in need of repair and that there was no platforms or walkways available.

11. That the defendant failed to provide a safe manner of egress from the train

12. That the Defendant, Metro-North, its agents, servants and/or employees were negligent and at fault in the negligent ownership, operation, maintenance and control of the railroad; in failing to provide the Plaintiff with a safe place to work; in failing to supervise and,

in fact, causing Plaintiff personal injuries as well as creating a hazardous condition in which to work; in being otherwise negligent and at fault under the circumstances herein.

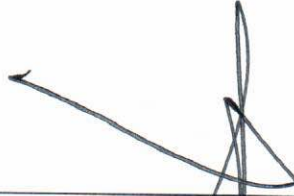
13. That the Plaintiff was compelled by reason of the injuries sustained by her to seek medical care and treatment and to be unfit for work and possibly permanently unfit to work in the future as a result of the injuries that she incurred while employed by the Defendant, Metro-North.

14. Solely by reason of the negligence, carelessness, recklessness and intentional disregard the Defendant, Metro-North, its agents, servants and/or employees, and without any negligence on the part of the Plaintiff in any way contributing thereto, Plaintiff sustained severe and permanent injuries complained of herein, suffered severe pain and suffering and emotional distress and permanent and painful injuries to his health, organs, nerves, muscles, and central nervous systems; has lost and will lose wages in his usual occupation; and was required to spend sums of money and attempting to effect a cure, and in the future will be required to spend sums of money and attempting to effect a cure, and this all to his damage in an amount to be determined by the Court.

WHEREFORE, Plaintiff requests judgment against the Defendant, Metro-North:

1. In a sum to be determined by proof at trial for pain, suffering and mental anguish both past and in the future;
2. In a sum to be determined by proof at trial for loss of earnings and loss of future earning capacity, including all fringe benefits;
3. In a sum to be determined by proof at trial for medical expenses incurred to date;
4. In a sum to be determined by proof at trial for future medical expenses; and,
5. For an award of Plaintiff's costs of suit in this action.

Dated: Melville, New York
April 30, 2020

A handwritten signature in black ink, appearing to read 'Steven L. Barkan', is written over a horizontal line.

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